

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-NINTH LEGISLATURE

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**TWENTY-NINTH LEGISLATIVE DAY**  
**MONDAY, FEBRUARY 4, 2008**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Siddoway, absent and formally excused by the Chair; and Senators Andreason, Cameron, Fulcher, McKenzie, and Schroeder, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Nichole Ball, Page.

The Senate advanced to the Third Order of Business.

### **Reading and Correction of the Journal**

Senators Andreason, McKenzie, and Schroeder were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 1, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### **Petitions, Resolutions and Memorials**

Senator Cameron was recorded present at this order of business.

### **SCR 125**

#### **BY STATE AFFAIRS COMMITTEE**

#### **A CONCURRENT RESOLUTION**

STATING FINDINGS OF THE LEGISLATURE AND RATIFYING CERTAIN FUEL TAX AGREEMENTS SIGNED BY THE GOVERNOR ON BEHALF OF THE STATE OF IDAHO WITH CERTAIN ENUMERATED INDIAN TRIBES, EFFECTIVE THE DATE OF SAID AGREEMENTS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the First Regular Session of the Fifty-ninth Idaho Legislature passed and the Governor signed House Bill No. 249, as amended, which provided that taxes imposed by Chapter 24, Title 63, Idaho Code, shall not apply to motor fuel that is the subject of an agreement authorized by Section 67-4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the Governor and an appropriate representative of a tribe before December 1, 2007; and

WHEREAS, Section 67-4002, Idaho Code, permits the Governor to enter into agreements with certain enumerated Indian Tribes regarding the assessment, nonassessment, collection, refund and sharing of any fuel tax imposed by the state and revenues from fuel taxes, subject to ratification by both houses of the Legislature by adoption of a concurrent resolution; and

WHEREAS, cooperation between the Governor on behalf of the state of Idaho and Coeur d'Alene, Kootenai, Nez Perce and Shoshone-Bannock Tribes relating to the assessment or nonassessment of state motor fuel taxes on fuels sold by these Tribes is desirable, mutually beneficial and preferable to litigating disputes arising out of such taxation; and

WHEREAS, the Governor engaged in good-faith negotiations with the Coeur d'Alene, Kootenai, Nez Perce and Shoshone-Bannock Tribes and reached historic agreements with said Tribes prior to the December 1, 2007, statutory deadline;

WHEREAS, the Governor, on behalf of the state of Idaho, signed the Agreement for the Collection and Dissemination of Motor Fuel Taxes Within the Boundaries of the Coeur d'Alene Reservation, dated October 16, 2007, with the Coeur d'Alene Tribe; and

WHEREAS, the Governor, on behalf of the state of Idaho, signed the Motor Fuels Tax Agreement, dated October 24, 2007, with the Shoshone-Bannock Tribes; and

WHEREAS, the Governor, on behalf of the state of Idaho, signed the Motor Fuels Tax Agreement, dated November 30, 2007, with the Kootenai Tribe; and

WHEREAS, the Governor, on behalf of the state of Idaho, signed the Agreement for the Collection and Distribution of Motor Fuel Taxes, dated November 30, 2007, with the Nez Perce Tribe.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the following agreements are hereby ratified, effective the date of each agreement:

(1) The Agreement for the Collection and Dissemination of Motor Fuel Taxes Within the Boundaries of the Coeur d'Alene Reservation, dated October 16, 2007, signed by the Governor on behalf of the state of Idaho with the Coeur d'Alene Tribe;

(2) The Motor Fuels Tax Agreement, dated October 24, 2007, signed by the Governor on behalf of the state of Idaho with the Shoshone-Bannock Tribes;

(3) The Motor Fuels Tax Agreement, dated November 30, 2007, signed by the Governor on behalf of the state of Idaho with the Kootenai Tribe; and

(4) The Agreement for the Collection and Distribution of Motor Fuel Taxes, dated November 30, 2007, signed by the Governor on behalf of the state of Idaho with the Nez Perce Tribe.

**SCR 125** was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

February 4, 2008

### Reports of Standing Committees

February 4, 2008

The JUDICIARY AND RULES Committee reports that **S 1363, S 1364, S 1365, S 1366, S 1367, and S 1368** have been correctly printed.

DARRINGTON, Chairman

**S 1363 and S 1364** were referred to the Health and Welfare Committee.

**S 1365, S 1366, and S 1368** were referred to the Commerce and Human Resources Committee.

**S 1367** was referred to the State Affairs Committee.

February 1, 2008

The FINANCE Committee reports out **H 424** with the recommendation that it do pass.

CAMERON, Chairman

**H 424** was filed for second reading.

February 1, 2008

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1250, S 1251, and S 1253** with the recommendation that they do pass.

ANDREASON, Chairman

**S 1250, S 1251, and S 1253** were filed for second reading.

February 1, 2008

The JUDICIARY and RULES Committee reports out **S 1349** with the recommendation that it do pass.

DARRINGTON, Chairman

**S 1349** was filed for second reading.

February 1, 2008

The JUDICIARY and RULES Committee reports out **S 1339** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1339** was referred to the Fourteenth Order of Business, General Calendar.

The STATE AFFAIRS Committee reports out **S 1321** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McKENZIE, Chairman

There being no objection, **S 1321** was referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

January 22, 2008

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Darrell Kerby of Bonners Ferry, Idaho, was appointed as a member of the Idaho Energy Resources Authority to serve a term commencing June 30, 2007, and expiring June 30, 2012.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C. L. 'Butch' Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

The President Pro Tempore announced the Agricultural Affairs Committee report relative to the Gubernatorial appointment of Joe Davidson was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Cameron, seconded by Senator Stegner, the Gubernatorial appointment of Joe Davidson as a member of the State Soil Conservation Commission was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**S 1369**

**BY JUDICIARY AND RULES COMMITTEE**

**AN ACT**

RELATING TO THE GUARDIANSHIP PILOT PROJECT FUND; AMENDING SECTION 2, CHAPTER 55, LAWS OF 2005, TO EXTEND THE SUNSET CLAUSE.

**S 1370**

**BY JUDICIARY AND RULES COMMITTEE**

**AN ACT**

RELATING TO CRIMES AND PUNISHMENTS; AMENDING SECTION 18-1506, IDAHO CODE, TO PROVIDE THAT IT SHALL CONSTITUTE A FELONY FOR CERTAIN PERSONS TO INDUCE, CAUSE OR PERMIT A MINOR CHILD TO WITNESS AN ACT OF SEXUAL CONDUCT, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS.

**S 1371**

**BY JUDICIARY AND RULES COMMITTEE**

**AN ACT**

RELATING TO RESTITUTION; AMENDING SECTION 19-5304, IDAHO CODE, TO PROVIDE FOR RESTITUTION IN CERTAIN CASES WHERE A PERSON HAS BEEN FOUND GUILTY OF LEAVING THE SCENE OF AN ACCIDENT RESULTING IN INJURY OR DEATH.

**S 1372**

**BY JUDICIARY AND RULES COMMITTEE**

**AN ACT**

RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2702, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-2703, IDAHO CODE, TO REVISE APPLICATION OF PENALTIES.

**S 1369, S 1370, S 1371, and S 1372** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

Senator Fulcher was recorded present at this order of business.

On request by Senator McGee, granted by unanimous consent, **S 1361** was referred to the Fourteenth Order of Business, General Calendar.

**S 1306** and **S 1307**, by Transportation Committee, were read the second time at length and filed for third reading.

**H 355**, by State Affairs Committee, was read the second time at length and filed for third reading.

**S 1340, S 1341, S 1342, and S 1343**, by Health and Welfare Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

**S 1274** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1274** passed, title was approved, and the bill ordered transmitted to the House.

**S 1273** was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Kelly and Jorgenson arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1273** passed, title was approved, and the bill ordered transmitted to the House.

**S 1346** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1346** passed, title was approved, and the bill ordered transmitted to the House.

**S 1347** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bair arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1347** passed, title was approved, and the bill ordered transmitted to the House.

**S 1337** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1337** passed, title was approved, and the bill ordered transmitted to the House.

**H 342** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 342** passed, title was approved, and the bill ordered returned to the House.

**S 1338** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1338** passed, title was approved, and the bill ordered transmitted to the House.

**S 1287** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1287** passed, title was approved, and the bill ordered transmitted to the House.

**S 1317** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKague arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1317** passed, title was approved, and the bill ordered transmitted to the House.

**S 1319** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1319** passed, title was approved, and the bill ordered transmitted to the House.

**S 1320** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1320** passed, title was approved, and the bill ordered transmitted to the House.

**H 340** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bilyeu arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Stegner, Thorson (Stennett), Werk. Total - 34.

NAYS--None.

Absent and excused--Siddoway. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 340** passed, title was approved, and the bill ordered returned to the House.

**H 341** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

On request by Senator Heinrich, granted by unanimous consent, **H 341** retained its place on the Third Reading Calendar for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### Miscellaneous Business

On motion by Senator Davis, seconded by Senator Langhorst, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11 a.m., Tuesday, February 5, 2008.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary